

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES
Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX

Petitioner

File No. 86279-001

v

John Alden Life Insurance Company
Respondent

Issued and entered
this 28th day of December 2007
by Ken Ross
Acting Commissioner

ORDER

I

PROCEDURAL BACKGROUND

On November 13, 2007, XXXXX, authorized representative for XXXXX, (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* On November 16, 2007, after a preliminary review of the material submitted, the Commissioner accepted the request.

This case required review by a medical professional. Therefore, the Commissioner assigned it to an independent review organization (IRO) which sent its recommendation to the Office of Financial and Insurance Services on November 29, 2007

II

FACTUAL BACKGROUND

The Petitioner is covered under a small group policy underwritten by John Alden Life Insurance Company. On February 7, 2007, the Petitioner had a colonoscopy performed at XXXXX in XXXXX, Michigan. The procedure was performed under monitored anesthesia care by a certified registered nurse anesthetist (CRNA). John Alden approved coverage for the colonoscopy but

denied coverage for the separate anesthesia services.

The Petitioner appealed the denial through John Alden's internal grievance process. John Alden maintained its denial and issued a final adverse determination letter dated September 26, 2007.

III ISSUE

Was John Alden correct in denying coverage for the monitored anesthesia care provided during the Petitioner's colonoscopy on February 7, 2007?

IV ANALYSIS

Petitioner's Argument

The Petitioner underwent a screening colonoscopy for which deep sedation was administered by a CRNA. The Petitioner's physician supported the use of deep sedation because the Petitioner has chronic obstructive pulmonary disease and takes daily medications, Lexapro and Vicodin, which makes it difficult to adequately sedate a patient. The Petitioner believes John Alden should provide coverage since her physician recommended the anesthesia.

Respondent's Argument

In its final adverse determination, John Alden defended its decision to deny coverage for the anesthesia in this way:

Sedation and analgesia are medically appropriate for endoscopic procedures. Conscious sedation is part of the endoscopy service that the gastroenterologist provides to the patient and provides the necessary relief of pain and anxiety associated with endoscopy. The selection of propofol for anesthesia is in excess of that level of care necessary to provide safe, adequate and appropriate treatment, and is not medically necessary as defined in the policy. The anesthesia record documents the ASA status as 2 and airway class I, an average risk patient. The preoperative assessment did not document a medical condition that would establish medical necessity for the services of an anesthesiologist or anesthetist.

John Alden asserts that its denial of the separate anesthesia charge was appropriate.

Commissioner's Review

In determining whether John Alden's denial should be upheld or reversed, the Commissioner looks first to the terms of the Petitioner's policy. The policy covers only those medical procedures, services, and supplies which are medically necessary. The policy defines "medically necessary" as:

A service or supply that We determine, at Our discretion, to be:

1. necessary for the symptoms and diagnosis or treatment of the Illness or Injury;
2. provided for the diagnosis, or the direct care and treatment, of the Illness or Injury;
3. in accordance with generally accepted medical practice;
4. not in excess of that level of care that is needed to provide safe, adequate and appropriate diagnosis or medical treatment;
5. not for convenience purposes. . . ;
6. the most appropriate level of medical care the Insured Person needs;
7. furnished within the framework of generally accepted methods of medical management currently used in the United States;
8. not Experimental or Investigational. . . ; and
9. not for Maintenance Care.

The fact that a Physician prescribes, orders, recommends or approves the care, the level of care or the length of time care is to be received, does not make the services Medically Necessary.

Since this appeal involves a question of medical necessity, the Commissioner obtained an analysis and recommendation from an IRO as required by section 11(6) of PRIRA. The IRO reviewer for this case is a physician in active practice who is board certified in anesthesiology. The IRO reviewer determined that the anesthesia services the Petitioner received on February 7, 2007 were not medically necessary for the treatment of her condition. The IRO report includes the following observations and conclusions:

[D]uring a colonoscopy, the standard of care is for the endoscopy nurse to monitor vital signs, and to administer sedation and analgesia under the guidance and supervision of the gastroenterologist or surgeon. . . . [W]hen there is no significant comorbid condition requiring an American Society of Anesthesiologists status of 3 or higher, anesthesia services in addition to those provided by the gastroenterologist and endoscopy nurse are not medically necessary.

The Commissioner notes that the medical records submitted in this matter indicate an ASA classification of Class 1 (patient without systemic illness) and Class 2 (patient with mild to moderate systemic disease disturbance). These entries appear on the "Physician's Diagnostics Record History and Physical" dated February 7, 2007 prepared by XXXXX, who performed the Petitioner's colonoscopy.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner. The IRO analysis is based on extensive expertise and professional judgment and the Commissioner can discern no reason why the recommendation should be rejected in this case. The Commissioner accepts the conclusion of the IRO that the anesthesia services in question were not medically necessary, and finds the services were therefore not a covered benefit under the Petitioner's policy.

V ORDER

The Commissioner upholds John Alden Life Insurance Company's September 26, 2007, adverse determination. John Alden is not responsible for coverage of the monitored anesthesia care provided on February 7, 2007.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County.

A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.